

coverage election period is deemed to have elected original Medicare.

(d) *Conversion of enrollment (seamless continuation of coverage)*—(1) *Basic rule.* An M+C plan offered by an M+C organization must accept any individual (regardless of whether the individual has end-stage renal disease) who is enrolled in a health plan offered by the M+C organization during the month immediately preceding the month in which he or she is entitled to both Part A and Part B, and who meets the eligibility requirements at § 422.50.

(2) *Reserved vacancies.* Subject to CMS's approval, an M+C organization may set aside a reasonable number of vacancies in order to accommodate enrollment of conversions. Any set aside vacancies that are not filled within a reasonable time must be made available to other M+C eligible individuals.

(3) *Effective date of conversion.* If an individual chooses to remain enrolled with the M+C organization as an M+C enrollee, the individual's conversion to an M+C enrollee is effective the month in which he or she is entitled to both Part A and Part B in accordance with the requirements in paragraph (d)(5) of this section.

(4) *Prohibition against disenrollment.* The M+C organization may disenroll an individual who is converting under the provisions of paragraph (a) of this section only under the conditions specified in § 422.74.

(5) *Election form.* The individual who is converting must complete and sign an election form as described in § 422.60(c)(1).

(6) *Submittal of information to CMS.* The M+C organization must transmit the information necessary for CMS to add the individual to its records as specified in § 422.60(e)(6).

(e) *Maintenance of enrollment.* An individual who has made an election under this section is considered to have continued to have made that election until either of the following, whichever occurs first:

(1) The individual changes the election under this section.

(2) The elected M+C plan is discontinued or no longer serves the area in which the individual resides, the organization does not offer, or the individual does not elect, the option of con-

tinuing enrollment, as provided under either § 422.54 or § 422.74(b)(3)(ii).

(f) *Exception for employer group health plans.* (1) In cases when an M+C organization has both a Medicare contract and a contract with an employer group health plan, and in which the M+C organization arranges for the employer to process election forms for Medicare-entitled group members who wish to disenroll from the Medicare contract, the effective date of the election may be retroactive. Consistent with § 422.250(b), payment adjustments based on a retroactive effective date may be made for up to a 90-day period.

(2) Upon receipt of the election form from the employer, the M+C organization must submit a disenrollment notice to CMS within timeframes specified by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 65 FR 40317, June 29, 2000]

#### **422.68 Effective dates of coverage and change of coverage.**

(a) *Initial coverage election period.* An election made during an initial coverage election period as described in § 422.62(a)(1) is effective as of the first day of the month of entitlement to both Part A and Part B.

(b) *Annual election periods.* For an election or change of election made during an annual election period as described in § 422.62(a)(2), coverage is effective as of the first day of the following calendar year.

(c) *Open enrollment periods.* For an election, or change in election, made during an open enrollment period, as described in § 422.62(a)(3) through (a)(6), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

(d) *Special election periods.* For an election or change of election made during a special election period as described in § 422.62(b), the effective date of coverage shall be determined by CMS, to the extent practicable, in a manner consistent with protecting the continuity of health benefits coverage.

(e) *Special election period for individual age 65.* For an election of coverage under original Medicare made during a

special election period for an individual age 65 as described in § 422.62(c), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

[63 FR 35071, June 26, 1998, as amended at 65 FR 40317, June 29, 2000; 67 FR 13288, Mar. 22, 2002]

**§ 422.74 Disenrollment by the M+C organization.**

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, an M+C organization may not—

(1) Disenroll an individual from any M+C plan it offers; or

(2) Orally or in writing, or by any action or inaction, request or encourage an individual to disenroll.

(b) *Basis for disenrollment*—(1) *Optional disenrollment.* An M+C organization may disenroll an individual from an M+C plan it offers in any of the following circumstances:

(i) Any monthly basic and supplementary beneficiary premiums are not paid on a timely basis, subject to the grace period for late payment established under paragraph (d)(1) of this section.

(ii) The individual has engaged in disruptive behaviors specified at paragraph (d)(2) of this section.

(iii) The individual provides fraudulent information on his or her election form or permits abuse of his or her enrollment card as specified in paragraph (d)(3) of this section.

(2) *Required disenrollment.* An M+C organization must disenroll an individual from an M+C plan it offers in any of the following circumstances:

(i) The individual no longer resides in the M+C plan's service area as specified under paragraph (d)(4) of this section, is no longer eligible under § 422.50(a)(3)(ii), and optional continued enrollment has not been offered or elected under § 422.54.

(ii) The individual loses entitlement to Part A or Part B benefits as described in paragraph (d)(5) of this section.

(iii) Death of the individual as described in paragraph (d)(6) of this section.

(3) *Plan termination or reduction of area where plan is available.* (i) *General*

*rule.* An M+C organization that has its contract for an M+C plan terminated, that terminates an M+C plan, or that discontinues offering the plan in any portion of the area where the plan had previously been available, must disenroll affected enrollees in accordance with the procedures for disenrollment set forth at paragraph (d)(7) of this section, unless the exception in paragraph (b)(3)(ii) of this section applies.

(ii) *Exception.* When an M+C organization discontinues offering an M+C plan in a portion of its service area, the M+C organization may elect to offer enrollees residing in all or portions of the affected area the option to continue enrollment in an M+C plan offered by the organization, provided that there is no other M+C plan offered in the affected area at the time of the organization's election. The organization may require an enrollee who chooses to continue enrollment to agree to receive the full range of basic benefits (excluding emergency and urgently needed care) exclusively through facilities designated by the organization within the plan service area.

(c) *Notice requirement.* If the disenrollment is for any of the reasons specified in paragraphs (b)(1), (b)(2)(i), or (b)(3) of this section (that is, other than death or loss of entitlement to Part A or Part B) the M+C organization must give the individual a written notice of the disenrollment with an explanation of why the M+C organization is planning to disenroll the individual. Notices for reasons specified in paragraphs (b)(1) through (b)(2)(i) must—

(1) Be mailed to the individual before submission of the disenrollment notice to CMS; and

(2) Include an explanation of the individual's right to a hearing under the M+C organization's grievance procedures.

(d) *Process for disenrollment*—(1) *Monthly basic and supplementary premiums are not paid timely.* An M+C organization may disenroll an individual from the M+C plan for failure to pay any basic and supplementary premiums under the following circumstances: